IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4296 of 2006()

CMP.2928/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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REVN. PETITIONER/COMPLAINANT:

SIMON, SON OF JACOB,
S.S.BHAVAN, ALAMPOTTA,
KOOVALASSERY P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.S.M. PREM
ADV. SMT.K.P. SANTHI

RESPONDENTS/STATE AND ACCUSED

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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. N.V. SAJEEV KUMAR,
SREE RANGAM, KADUKKORAKONAM,
KOOVALASSERY P.O., THIRUVANANTHAPURAM.

R1 BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4296 OF 2006

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Dated this the 5th December , 2006

O R D E R

The petitioner filed a complaint against the second respondent alleging offence under section 138 of the Negotiable Instruments Act . The complaint was filed on 31.07.2006. The case was adjourned to 13.09.2006. On that date, the complainant was absent and the case was adjourned to 16.10.2006 for appearance of the complainant. On 16.10.2006, when the case was taken up, the complainant and his counsel were absent. The court below dismissed the complaint for default on 16.10.2006. That order is under challenge in this Crl. Revision Petition.

2. It is stated in the statement of facts in the Memorandum of Revision that on 16.10.2006, the complainant was present, but the counsel was engaged in another court. It is also stated that the counsel had made arrangements with another counsel to make representation before the court. But the latter omitted to make a representation when the case was called. It is recorded in the order impugned that the complainant was

absent, and therefore the case of the petitioner in the Memorandum of Crl. Revision Petition that he was present on 16.10.2006 cannot be believed.

3. However, taking note of the fact that the amount covered by the cheque is Rs. 6,00,000/-, I am inclined to take a lenient view in the matter. The order impugned is set aside. The petitioner shall appear before the court below on 20.12.2006 and shall continue to appear on every posting date unless the court below exempts him from appearing or condones his absence.

The Crl. Revision Petition is disposed of as above.

K.T. SANKARAN,
JUDGE.

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